IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 89 OF 2004

IN

WRIT PETITION NO.731 OF 2004

Shri M. U. Shiva ...Petitioner

Vs.

Municipal Corporation of
Greater Mumbai & Ors. ...Respondents

None for the Petitioner.
Ms Archana Joshi for the Respondent-B.M.C.

CORAM : S.K.SHAH, J.
DATE : NOVEMBER 19, 2005.

P.C.:

1. None for the Petitioner. The learned Counsel for the Respondent submits that the Respondents have filed affidavit specifically mentioning that the Respondents have not terminated the services of the Petitioner as Khada badli employees.

2. Perusal of the Contempt Petition shows that the Petitioner alleged that the contempt of the interim order passed on 16.04.2004 in the Writ Petition has been committed. The Petitioner mentions that by

interim order passed in terms of prayer clause (b) on that the Respondents were restrained from discontinuing the present employment of the Petitioner and by clause (c) the Respondents were restrained from appointing any person as class IV again the existing vacant post or by creating additional vacant post. The Petitioner alleged that the Respondents have committed breach of these orders contained in prayer clause (b) and (c). The interim order was passed on 16.04.2004. Thereafter, on 21st July, 2004 Rule was issued and specific order was passed whereby the statement made by the learned Counsel for the Respondent was accepted and statement was to the effect that they will not terminate the services of the Petitioners and that statement was accepted.

3. The order dated 21st July, 2004 also mentions that it would be open to the Petitioner presently working to opt for the scheme which is in force and that if they do not opt, they will be protected in terms of statement made and accepted i.e. their services will not be terminated. This contention of the Respondent that the earlier order passed on 16.04.2004 has merged with the subsequent order dated 21.07.2004.

4. Even otherwise the affidavit filed on behalf of the Respondents explains the entire position. The affidavit specifically mentions that after the order

passed on 26th July, 2004, the Petitioner did not opt for the scheme and the Respondents have not terminated the services as Khada Badli Employees.

5. Taking for the sake of argument that the earlier order dated 16.04.2004 survives, this position has been explained in the affidavit. The grievance that is made by the Petitioner is on the basis of the orders dated 19.07.2004 and 02.08.2004 whereby two persons were appointed as sweeper on vacant post for emergency medical service on probation.

6. The learned Counsel for the Respondents explains on the basis of the affidavit filed by the Respondent that these posts are different than the Khada Badli workers. These posts are also on the establishment of Chief Engineer (Solid Waste Management) Conservancy and not concerned with the Khada Badli workers which comes under the different Department.

7. At any rate since the services of the Petitioners are not terminated in context to the statement made to the Court which is incorporated in the order dated 21.07.2004, I do not find any merit in the Contempt Petition.

8. The Contempt Petition stands dismissed.

[S.K.Shah , J.]